

USING LAW FOR HEALTHY HOMES

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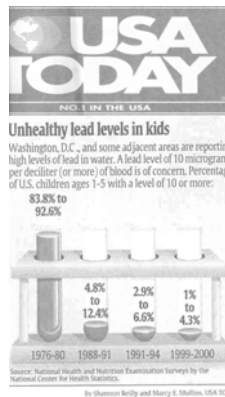
Which of these children should
be tested for lead poisoning?



ALL OF THEM!

Prevalence of Childhood Blood Levels

- Blood levels as low as 10 ug/dL are associated with harmful effects on children's ability to learn.
- It is currently estimated that some 890,000 US children have BLLS greater than 10ug/dL (CDC, 1997).
- Housing built before 1950 poses the greatest risk of exposure to children.



Universal vs. Targeted Screening

- In 1997, CDC recommended universal screening for any county that has more than 27% pre-1950 housing stock.
- According to 1990 census data, 29 % of the housing stock in Marion County was built before 1950.

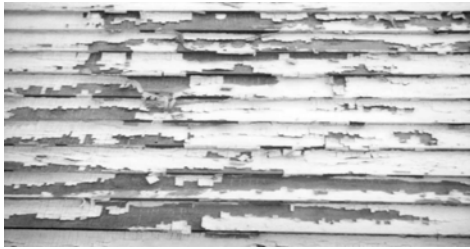


Marion County Housing Stock

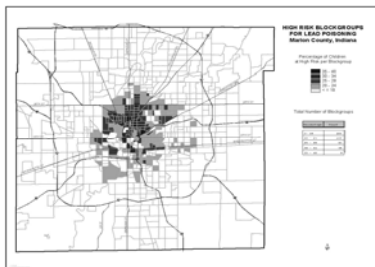
- Prevalent in homes built before 1950
- Marion County has 102,000 homes that were built before 1950
- Approximately one-third of the housing stock in Marion County was built before 1950

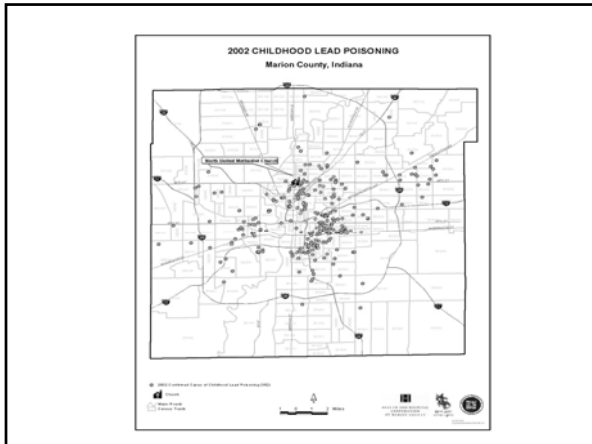


Examples of Lead-based paint



High Risk Block Groups





**Prevalence of Childhood
Blood Levels**
*Percentage of children with BLLs equal to 5 ug/dL
by race/ethnicity, US 1991-1994*

<i>Race and Ethnicity</i>	<i>% of children ages 1-5 with BLLs ≥ 5 ug/dL</i>	<i>% of children ages 1-5 with BLLs ≥ 10 ug/dL</i>
Black, non - Hispanic	46.8%	11.2%
Mexican-American	27.9%	4.0%
White, non- Hispanic	18.7%	4.4%

Environmental Justice

- "Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."

EPA Policy statement

FACTS

- Low-income children and children of color are most likely to be affected by environmentally induced diseases such as lead poisoning and asthma.
- Children from low income families are eight times as likely to be lead-poisoned as those from higher income families, and African-American children are at five times the risk of whites to be lead-poisoned.

CDC, *Update on Blood Levels – United States, 1991-1994*, Morbidity and Mortality Weekly Report 141-46 (1997)

FACTS

African-American children are three times as likely to be hospitalized for and to die from asthma as white children.

Marsha Lillie-Blanton et al., *Key Facts: Race, Ethnicity, and Medical Care*: Update, June 2003 (Kaiser Family Foundation 2003)

Children exposed to hazardous substances are at risk of developing learning disabilities, loss of IQ, chronic and acute respiratory diseases, cancers, nervous system disease and death.

Thomas Matte & David Jacobs, *Housing and Health: Current Issues and Implications for Research and Programs*, 77 *J Urban Health*, 11 (2000).

Lead-Based Paint Poisoning Prevention
Act of 1971
42 U.S.C. 4821 et seq.

- ❖ Included the first ban on lead use in residential paint.
- ❖ Encouraged local governments to screen for elevated blood lead levels.
- ❖ Amended to require inspections and abatement of lead paint in public housing.

Lead-Based Paint Exposure Reduction Act of 1992
(Title IV of the Toxic Substances Control Act)
15 U.S.C. §2681 et seq.

- ❖ Required the establishment of training and certification programs for contractors and others doing abatement activities.
- ❖ Required contractors doing renovations to target housing to provide informational pamphlet on lead exposure to owners and occupants
- ❖ Set standards for laboratories.
- ❖ Established program for study of the extent of childhood lead poisoning.

The Residential Lead-Based Paint Hazard
Reduction Act of 1992 (Title X)
42 U.S.C. §4851 et seq.

- Requires the sellers, owners, and managers of residential buildings built before 1978 (the year lead was banned from residential paint) to warn prospective buyers and tenants about the likely or known presence of lead-based paint and lead in dust or soil on the property.
- Requires landlords to give tenants an EPA pamphlet about how to minimize lead dangers to children.

Lead-Based Paint Poisoning in Residential
Structures
40 C.F.R. 745.100 et seq.

- This regulation required training and licensing requirements for contractors.
- It established work practice standards for abatement activities.
- It established notice requirements for renovation activities.
- This regulation implements 42 U.S.C. §4851 et seq.

Civil Enforcement under 42 U.S.C. §4851

- The EPA and HUD may assess an administrative civil penalty in the maximum amount of \$11,000 for each violation.
- The Act authorizes injunctive relief for violations.
- HUD and the EPA may enter into administrative consent agreements or judicial consent decrees to settle cases.

Selected Indiana statutes

- **IC 12-15-12-20 Child lead poisoning screening**
- **IC 16-41-39.4 Childhood Lead Poisoning**
- **IC 13-17-14 Lead-Based Paint Activities**
- **IC 13-14-10 General Emergency Procedures**

Causes of action

- Strict liability
- Negligence
- Indemnity
- Consumer protection law violations
- Unjust enrichment
- Fraud and conspiracy
- Public nuisance

State of Rhode Island v. Lead Industries Association et al.

- February, 2006 – Rhode Island wins suit against manufacturers of lead-based paint.
- Cause of action – lead contamination of homes is a public nuisance.
- State's contention was that the widespread harm caused by lead-based paint in public and private buildings constituted a public nuisance for which the lead pigment manufacturers are responsible.

Indiana Efforts

- The Health and Hospital Corporation ("HHC") d/b/a the Marion County Health Department ("MCHD") was awarded \$2,974,839 from the United States Department of Housing and Urban Development ("HUD") through the Lead Based Paint Hazard Control Grant Program.
- The funding will support activities to address lead hazards and energy efficiency needs of high-risk, multi-unit apartment buildings in Indianapolis for a 36-month period, beginning November 1, 2005 and ending October 31, 2008.

Indiana Efforts

- Unique application strategy due to health and housing being in the same parent organization.

Marion County Lead Hazard Control Project

- Partnerships: Indianapolis Healthy Housing Network ("IHHN")
 - Marion County Health Department
 - Community Action of Greater Indianapolis
 - City of Indianapolis Department of Metropolitan Development ("DMD")
 - Indianapolis Housing Agency
 - Environmental Management Institute ("EMI")
 - Improving Kids Environment ("IKE")
- Goal of IHHN: Reduce hazards posed by lead based paint and prevention of childhood lead poisoning in Indianapolis/Marion County

Marion County Lead Hazard Control Project

- MCHD responsibilities
 - Lead agency in implementation of lead hazard control activities.
 - Train property owners, prepare owner contact agreements, oversee bid process, conduct periodic quality assurance inspections and perform clearance dust testing.
 - Partner with EMI to provide training to contractors participating in the project.

Marion County Lead Hazard Control Project

- CAGI responsibilities
 - Reviewing applications, assuring financial eligibility of property owners, writing specifications, scheduling and monitoring work, and performing construction payouts.
 - Provide guidelines for energy efficiency improvements to property owners, and establish and maintain database of energy efficiency information on inspected housing units.
 - Oversee energy rating, weatherization technology, and provide lead hazard identification training to residents of housing units.

Scope of Project

- Target Areas: High-risk multi-unit apartment buildings in Marion County.
- Letters sent to 600 apartment owners.
- Measurable objectives:
 - 550 housing units will be inspected.
 - 322 housing units will have lead hazard control work completed and cleared. Fifty percent (50%) costs by contractor with matching funds by MCHD).
 - 45 contractors will be trained in lead safe work practices and positive marketing of lead safe work practices.
 - MCHD staff will participate in 120 community events.
 - 400 families will receive lead poisoning prevention and fair housing information.

Scope of Project

- Additional objectives
 - Listing the 322 properties on the lead safe housing website.
 - Providing blood tests to 400 children.
 - Program will have a primary prevention focus resulting in lead-safe, energy efficient, and affordable housing units for 322 families in the target areas.

Marion County Lead Hazard Control Workflow

- Potential Applicants identified by:
 - MCHD inspector who has identified hazardous housing by elevated blood level or complaint,
 - Homeowner who inquires with MCHd or CAGI about funding.
 - Referral by Indianapolis Housing Agency.
- CAGI will mail application to homeowners.
- CAGI will process all completed applications and determine eligibility.

Marion County Lead Hazard Control Workflow

- MCHD will conduct lead-based paint inspection and CAGI will carry out energy assessment.
- CAGI will write work specifications.
- Bid notice.
- Bid walk-through.
- Contractors submit bids to Director of Housing.
- MCHD and CAGI will review bids within three (3) days of receipt.
- CAGI will award contract to selected owner and prepare contract.

Marion County Lead Hazard Control Workflow

- CAGI will collect and document match from property owner.
- Signature obtained from all parties.
- MCHD will issue notice to proceed.
- Commencement of work. Average cost per unit: \$9,000.00 which includes cost of all lead hazard control activities and replacement of 10 to 15 windows with energy efficient windows.
- Monitoring of work by MCHD.

Marion County Lead Hazard Control Workflow

- Clearance once work is completed. Copy faxed to contractor.
- Contractor will submit final draw with clearance results to CAGI.
- CAGI will voucher MCHD and pay the contractor.
- Declaration of Covenant:
 - Contractor agrees not to raise rent for three (3) years.
- MCHD will provide on-going monitoring.

Progress to Date

- Expectation that project will be completed in 18 months instead of 36 months.
- 48 units completed within 2 weeks.
- 73 units currently in various stages of lead abatement.
- \$3,793,500 designated as match from area landlords.
- This number represents 843 units that landlords have identified.

Bathroom Window



Double Hung Windows



Exterior Windows



Lead Danger Sign



Kitchen Redo



Exterior Windows



Single Hung Window



Exterior Windows



More accomplishments

- Indiana Department of Environmental Management used an illegal dumping rule to address migrant lead paint chips – fined property owner \$34,000 for contaminating a neighbor's yard
- Local advocacy group (IKE) pushed state government to comply with federal mandate to provide Medicaid reimbursement for case management and environmental inspection issues

More accomplishments

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IKE's Key Accomplishments

- Law banning mercury in novelty products and most uses of mercury in schools (2001).
- Law prohibiting dangerous work practices in homes with lead paint by contractors doing remodeling, renovation or maintenance work (2002).
- Legislative proposals on pesticide use in schools led to adoption of voluntary pesticide policy by many Indiana schools (2002).
- Law requiring removal of mercury-containing switches from junked cars prior to recycling (2006).

RESOURCES

- Alliance for Healthy Homes www.afhh.org
- Community Environmental Health Resource Center www.cehrc.org
- Environmental Health Coalition www.environmentalhealth.org
- Healthy Public Housing Initiative www.hsph.harvard.edu/hphi
- Improving Kids' Environment www.ikecoalition.org
- EPA www.epa.gov
- HUD www.hud.gov
- Marion County Health Department www.mchd.com
- National Center for Healthy Housing www.centerforhealthyhousing.org
